

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	2

MR. SPEAKER:

Your Committee on Commerce and Economic Development, to which was referred
Engrossed Senate Bill 232, has had the same under consideration and begs leave to
report the same back to the House with the recommendation that said bill **be amended** as
follows:

- 1 Page 1, line 2, delete "JULY 1, 2004]:" and insert "UPON
- 2 PASSAGE]:".
- 3 Page 2, line 32, delete "JULY 1, 2004]:" and insert "UPON
- 4 PASSAGE]:".
- 5 Page 3, delete lines 34 through 42, begin a new paragraph and insert:
- 6 "SECTION 3. IC 25-34.1-3-4.1 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) To obtain
- 8 a broker license, an individual must:
- 9 (1) be at least eighteen (18) years of age before applying for a
- 10 license and must not have a conviction for:
- 11 (A) an act that would constitute a ground for disciplinary
- 12 sanction under IC 25-1-11;
- 13 (B) a crime that has a direct bearing on the individual's ability
- 14 to practice competently; or

1 (C) a crime that indicates the individual has the propensity to
2 endanger the public.

3 (2) have satisfied section 3.1(a)(2) of this chapter and have had
4 continuous active experience for one (1) year immediately
5 preceding the application as a licensed salesperson in Indiana;
6 however, this one (1) year experience requirement may be waived
7 by the commission upon a finding of equivalent experience;

8 (3) have successfully completed an approved broker course of
9 study as prescribed in IC 25-34.1-5-5(b);

10 (4) apply for a license by submitting the application fee prescribed
11 by the commission and an application specifying the name,
12 address, and age of the applicant, the name under which the
13 applicant intends to conduct business, the address where the
14 business is to be conducted, proof of compliance with
15 subdivisions (2) and (3), and any other information the
16 commission requires;

17 (5) pass a written examination prepared and administered by the
18 commission or its duly appointed agent; and

19 (6) within one hundred twenty (120) days after passing the
20 commission examination, submit the license fee of fifty dollars
21 (\$50). If an individual applicant fails to file a timely license fee, the
22 commission shall void the application and may not issue a license
23 to that applicant unless that applicant again complies with the
24 requirements of subdivisions (4) and (5) and this subdivision.

25 (b) To obtain a broker license, a partnership must:

26 (1) have as partners only individuals who are licensed brokers;

27 (2) **except as provided in IC 25-34.1-4-3(b)**, have at least one

28 (1) partner who is a resident of Indiana;

29 (3) cause each employee of the partnership who acts as a broker
30 or salesperson to be licensed; and

31 (4) submit the license fee of fifty dollars (\$50) and an application
32 setting forth the name and residence address of each partner and
33 the information prescribed in subsection (a)(4).

34 (c) To obtain a broker license, a corporation must:

35 (1) **except as provided in IC 25-34.1-4-3(b)**, have a licensed
36 broker residing in Indiana who is either an officer of the
37 corporation or, if no officer resides in Indiana, the highest ranking

1 corporate employee in Indiana with authority to bind the
2 corporation in real estate transactions;

3 (2) cause each employee of the corporation who acts as a broker
4 or salesperson to be licensed; and

5 (3) submit the license fee of fifty dollars (\$50), an application
6 setting forth the name and residence address of each officer and
7 the information prescribed in subsection (a)(4), a copy of the
8 certificate of incorporation, and a certificate of good standing of
9 the corporation issued by the secretary of state of Indiana.

10 (d) To obtain a broker license, a limited liability company must:

11 (1) if a member-managed limited liability company:

12 (A) have as members only individuals who are licensed
13 brokers; and

14 (B) **except as provided in IC 25-34.1-4-3(b)**, have at least one

15 (1) member who is a resident of Indiana; or

16 (2) if a manager-managed limited liability company, **except as**
17 **provided in IC 25-34.1-4-3(b)**, have a licensed broker residing in
18 Indiana who is either a manager of the company or, if no manager
19 resides in Indiana, the highest ranking company officer or
20 employee in Indiana with authority to bind the company in real
21 estate transactions;

22 (3) cause each employee of the limited liability company who acts
23 as a broker or salesperson to be licensed; and

24 (4) submit the license fee of fifty dollars (\$50) and an application
25 setting forth the information prescribed in subsection (a)(4),
26 together with:

27 (A) if a member-managed company, the name and residence
28 address of each member; or

29 (B) if a manager-managed company, the name and residence
30 address of each manager, or of each officer if the company
31 has officers.

32 (e) Licenses granted to partnerships, corporations, and limited
33 liability companies are issued, expire, are renewed, and are effective on
34 the same terms as licenses granted to individual brokers, except as
35 provided in subsection (h), and except that expiration or revocation of
36 the license of:

37 (1) any partner in a partnership or all individuals in a corporation

1 satisfying subsection (c)(1); or
2 (2) a member in a member-managed limited liability company or
3 all individuals in a manager-managed limited liability company
4 satisfying subsection (d)(2);

5 terminates the license of that partnership, corporation, or limited liability
6 company.

7 (f) Upon the applicant's compliance with the requirements of
8 subsection (a), (b), or (c), the commission shall issue the applicant a
9 broker license and an identification card which certifies the issuance of
10 the license and indicates the expiration date of the license. The license
11 shall be displayed at the broker's place of business.

12 (g) Notice of passing the commission examination serves as a
13 temporary permit for an individual applicant to act as a broker as soon
14 as the applicant sends, by registered or certified mail with return receipt
15 requested, a timely license fee as prescribed in subsection (a)(6). The
16 temporary permit expires the earlier of one hundred twenty (120) days
17 after the date of the notice of passing the examination or the date a
18 license is issued.

19 (h) A broker license expires, for individuals, at midnight, December
20 31 and, for corporations, partnerships, and limited liability companies
21 at midnight, June 30 of the next even-numbered year following the year
22 in which the license is issued or last renewed, unless the licensee
23 renews the license prior to expiration by payment of a biennial license
24 fee of fifty dollars (\$50). An expired license may be reinstated within
25 one hundred twenty (120) days after expiration by payment of all
26 unpaid license fees together with twenty dollars (\$20). If the license is
27 renewed within eighteen (18) months, but more than one hundred
28 twenty (120) days, after expiration, the licensee must pay a late fee of
29 one hundred dollars (\$100) plus any unpaid license fees. If a broker
30 fails to reinstate a license within eighteen (18) months after expiration,
31 a license may not be issued unless the broker again complies with the
32 requirements of subsection (a)(4), (a)(5), and (a)(6).

33 (i) A partnership, corporation, or limited liability company may not
34 be a broker-salesperson except as authorized in IC 23-1.5. An individual
35 broker who associates as a broker-salesperson with a principal broker
36 shall immediately notify the commission of the name and business
37 address of the principal broker and of any changes of principal broker

that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 4. IC 25-34.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

~~(b) A nonresident individual broker may act only as a broker-salesperson.~~

~~(c)~~ (b) A nonresident salesperson or broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

~~(d)~~ (c) The requirements of this section may be waived for individuals of or moving from other jurisdictions if the following requirements are met:

- (1) The jurisdiction grants the same privilege to the licensees of this state.
- (2) The individual is licensed in that jurisdiction.
- (3) The licensing requirements of that jurisdiction are substantially similar to the requirements of this chapter.
- (4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state."

Delete pages 4 through 6.

Page 7, delete lines 1 through 15.

Page 7, line 18, delete "JULY 1, 2004]:" and insert "UPON PASSAGE]:".

Page 9, line 7, after "in" insert "**section 5(b) of this chapter.**".

Page 9, delete lines 8 through 10, begin a new paragraph and insert:

"SECTION 6. IC 25-34.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Each individual who is a principal broker or is designated by a partnership, corporation, or a limited liability company pursuant to section 2 of this chapter shall be a resident of Indiana.

1 **(b) A resident licensee may not affiliate with a nonresident**
2 **principal broker, nonresident partnership broker, nonresident**
3 **corporate broker, or nonresident limited liability broker unless**
4 **the nonresident principal broker, nonresident partnership broker,**
5 **nonresident corporate broker, or nonresident limited liability**
6 **broker satisfies the residency requirement under subsection (a).**

7 **(c) A nonresident licensee may affiliate with a nonresident**
8 **principal broker, nonresident partnership broker, nonresident**
9 **corporate broker, or nonresident limited liability broker if the**
10 **nonresident principal broker, nonresident partnership broker,**
11 **nonresident corporate broker, or nonresident limited liability**
12 **broker does not satisfy the residency requirement under**
13 **subsection (a).**

14 **SECTION 7. An emergency is declared for this act."**

15 Renumber all SECTIONS consecutively.

(Reference is to ES 232 as reprinted January 28, 2004.)

and when so amended that said bill do pass.

